

REMARKS

Applicants would like to express appreciation to the Examiner for the detailed official action provided. Upon entry of the present amendment, claims 31 and 42 will have been amended and claims 71-72 will have been canceled without prejudice or disclaimer. No new matter has been added. Claims 31-32, 34-43, 45-53, 55-56 and 69-70 are presently pending in the application.

Rejections under 35 U.S.C. §112

The Examiner rejected the claims under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserted that the phrase “a second, later force discontinuous to the first force” is new matter. Without agreeing to the propriety of the Examiner’s rejections and solely in order to expedite the patent application process, Applicants have elected to amend the independent claims to delete this limitation.

It is thus respectfully asserted that the claims are patentable at least under 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 102

In the outstanding Final Official Action, the Examiner maintained the rejection of claims 31, 32, 34-43, 45-53, 55, 56 and 69-72 under 35 U.S.C. §102(b) as being anticipated by SHIPP et al., essentially setting forth the same rejection applied in the previous Official Action of February 20, 2008. The Examiner has also indicated the allowability of dependent claims 71-72 if amended to incorporate the limitation of the base claim and any intervening claims and as amended by the Examiner.

While Applicants again respectfully disagree with the Examiner's overly broad interpretation of SHIPP, without agreeing to the propriety of the Examiner's rejections and solely in order to expedite the patent application process, Applicants have elected to amend independent claims 31 and 42 to respectively generally incorporate the limitations of dependent claims 71-72 as well as the Examiner's proposed amendments thereto, and have canceled claims 71-72.

With respect to the Examiner's rejection of dependent claims 32, 34-41, 43, 45-53, 55, 56 and 69-70 under 35 U.S.C. § 102, Applicants submit that these claims are dependent from one of allowable independent claims 31 and 42, which is allowable for at least the reasons discussed *supra*. Thus, these dependent claims are also allowable for at least the reasons discussed *supra*. Further, all dependent claims set forth a further combination of elements neither taught nor disclosed by any of the applied references.

Absent a disclosure in a single reference of each and every element recited in a claim, a *prima facie* case of anticipation cannot be made under 35 U.S.C. § 102. Since the applied references fail to disclose each and every element recited in independent claim 31 and 42, these claims and the claims dependent therefrom, are not anticipated thereby. Accordingly, the Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. § 102.

Applicants note that the status of the present application is after final rejection and that once a final rejection has issued, an Applicant does not have a right to amend an application. Nevertheless, in the present situation, Applicants respectfully submit that entry of the present amendment is appropriate and proper and in full compliance with 37 C.F.R. § 1.116. In this regard, Applicants note that they are merely incorporating claim terminology already indicated by the Examiner as being allowable. Accordingly, Applicants respectfully submit that the

present amendment raises no issues requiring further consideration or search and thus should be entered by the Examiner.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have discussed the disclosure of each of the Examiner's references and have pointed out the shortcomings and deficiencies thereof with respect to the features recited in Applicants' claims.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejection is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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